

## **REMARKS**

This Response is filed in response to the Non-Final Rejection mailed on March 5, 2007 (the "Rejection"). Claims 1-20, 28-37, and 55-58 are currently pending. Claims 28-33 and 37 have been amended. No new matter has been added. Reconsideration of the outstanding rejections in the present application is respectfully requested based on the following remarks.

### **I. ALLOWABLE SUBJECT MATTER**

Applicants initially thank Examiner Pyzocha for considering the Request for Pre-Appeal Brief Conference filed January 29, 2007, finding the arguments persuasive, and thereby reopening prosecution and withdrawing the obviousness rejections of claims 1-10, 28-37, and 55-58. *See* Office Action at p. 2-3. Furthermore, Applicants acknowledge and thank Examiner Pyzocha for indicating claims 1-10 and 55-56 as being allowed. *See* Office Action at p. 3.

### **II. REJECTION UNDER 35 U.S.C. § 101**

Claims 28-37 and 57-58 have been rejected under 35 U.S.C. § 101 as being allegedly directed to non-statutory subject matter. The Examiner asserts that these claims are not limited to tangible embodiments. Specifically, the Examiner asserts that the claims "fail to fall within a statutory category" because "the claim body merely relates to a set of instructions." *See* Office Action at p. 2. Furthermore, the Examiner alleges that "the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of [Section] 101" and "are clearly not a series of steps or acts to be a process." *See* Office Action at p. 2. However, Applicants respectfully disagree. In fact, Applicants assert that there is no such requirement on patentable subject matter as long as the claimed invention as a whole accomplishes a practical application. That is, it must produce a "useful, concrete and tangible result." State Street Bank & Trust Co. v. Signature Financial Group Inc., 149 F.3d 1368, 1373, 47 USPQ2d 1596, 1601-02. Furthermore, Applicants direct the Examiner to the case law set

forth in In re Beauregard, 35 USPQ 2d 1383, 1384 (Fed. Cir. 1995), the recently decided In re Lundgren, (cite pending), and others, which clearly provide a patentable subject matter basis for claim(s) 28-37 and 57-58.

Nevertheless, for the purpose of expediting prosecution, Applicants have amended claims 28-33 and 37. Specifically, independent claim 28 now recites a “*system* for providing discriminated partner system resources to a user of a host’s system resources during a single login session comprising: *a partner system* for providing partner system resources through a computer network, wherein said *partner system* comprises downloadable executable code stored on *computer-readable media* for performing the following: receiving a request to access *partner system* resources through *a host system* said *host system* comprising a *financial service provider system* with which a user of a *host’s system* resources has one or more financial accounts; receiving *host system* data; identifying a *host system*; receiving user data; identifying said user based at least in part on said user data; identifying said user’s financial account data; and providing discriminated *partner system* resources to said user, said discriminated *partner system* resources being selected based at least upon a preexisting association between the *host system* and the *partner system*, a preexisting association between the user and the *partner system*, and said user’s financial account data; wherein providing discriminated *partner system* resources to said user comprises discriminated *partner system* resources identified with said host system comprising downloadable executable code stored on *computer-readable media* for performing the following: identifying graphical information used by said *host system*; replicating said graphical information; classifying said host system; identifying non-conflicting additional *partner system* resources that are do not conflict with said host system’s classification; and incorporating said replicated graphical information and said non-conflicting additional *partner system* resources into a standard *partner system* resource to create a discriminated *partner system* resource” (emphasis added).

Thus, it is clear that claim 28, for example, does not merely recite a “set of instructions,” as alleged by the Examiner, but rather a “system” comprising various components or sub-“systems” (e.g., a partner system, a host system, a financial provider service system, a computer network) and code stored on “computer-readable media” for performing a series of steps or acts. This contradicts the Examiner’s assertion that the claims are not directed to statutory subject matter. In fact, the Examiner acknowledges that claim 28 relates to a “system.” *See* Office Action at p. 2. In view of the foregoing, it is respectfully requested that the aforementioned non-statutory subject matter rejection of independent claim 28 be withdrawn.

Claims 29-37 and 57-58 are dependent upon independent claim 28. Thus, since independent claim 28 should be allowable for the reasons discussed above, claim 29-37 and 57-58 should also be allowable at least by virtue of their dependency on independent claim 28. In view of the foregoing, it is respectfully requested that the aforementioned non-statutory subject matter rejection of claims 29-37 and 57-58 be withdrawn.

### III. CONCLUSION

It is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for the extension of time under 37 C.F.R. § 1.136 is hereby made.


Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

**HUNTON & WILLIAMS LLP**

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By:

  
George Y. Wang  
Registration No. 58,637

For: Stephen T. Schreiner  
Registration No. 43,097

**HUNTON & WILLIAMS LLP**  
1900 K Street, N.W., Suite 1200  
Washington, D.C. 20006-1109  
202.955.1500 (Main Line)  
202.778.2201 (Facsimile)